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PART III.

Legislative Measures and Rules thereunder.

REGULATION No. VII OF 1918.

A Regulation to amend the Law relating to Co-operative Societies in Mysore.

(Received the Assent of His Highness the Maharaja, on the 4th day of August 1918.)

WHEREAS it is expedient to amend the law relating to Co-operative Societies in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Preliminary.

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Co-operative Societies Regulation, 1918;

(2) It extends to the whole of Mysore; and

(3) It shall come into force on the date of the passing thereof.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(*a*) "by-laws" means the registered by-laws for the time being in force and includes a registered amendment of the by-laws;

(*b*) "committee" means the governing body of a registered society to whom the management of its affairs is entrusted;

(*c*) "member" includes a person joining in the application for the registration of a society

and a person admitted to membership after registration in accordance with the by-laws and any rules made under this Regulation;

(*d*) "officer" includes a chairman, secretary, treasurer, member of committee, or other person empowered under the rules or the by-laws to give directions in regard to the business of the society;

(*e*) "registered society" means a society registered or deemed to be registered under this Regulation;

(*f*) "registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Regulation; and

(*g*) "rules" means rules made under this Regulation.

Objects.

Objects of societies.

3. A society shall consist of persons who have for their common object or objects some one or more of the following, namely:—

(1) the furtherance of thrift and providence among the members;

(2) the attraction of capital and the grant of credit to the members;

(3) the supply to members of raw material, seed or manure;

(4) the sale on behalf of members of agricultural produce or of manufactured goods;

(5) the manufacture of goods or growth of produce by the members co-operatively;

(6) the purchase of food-stuffs, clothing or other articles of consumption, or of animals, implements or other stock required in agriculture or industry and their retail sale to members;

(7) the purchase of machinery and its use in common by members;

(8) the building of houses or purchase of lands for members;

(9) the carrying out or development, by joint action of an improvement whether agricultural or industrial;

(10) the insurance of the person, families and property of the members including live-stock co-operatively;

(11) any other object calculated to promote the economic interests of the members of a society in accordance with co-operative principles; and

(12) the facilitating of the operations of a society.

Registration.

The Registrar.

4. The Government may appoint a person to be Registrar of Co-operative Societies for the whole or any portion of Mysore, and may appoint persons to assist such Registrar, and may by general or special order confer on any such persons all or any of the powers of a Registrar under this Regulation.

Liability of members.

5. Subject to the provisions hereinafter contained, a society which has as its object some one or more of those specified in section 3 may be registered under this Regulation with or without limited liability.

Provided that the liability of a society of which a member is a registered society shall be limited.

Restrictions on interest of member of a society with limited liability and a share capital.

6. Where the liability of the members of a society is limited by shares, no member other than a registered society shall,—

(*a*) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules, or

(*b*) have or claim any interest in the shares of the society exceeding one thousand rupees without the express sanction of the Government.

Conditions of registration.

7. (1) No society, other than a society of which a member is a registered society, shall be registered under this Regulation, which does not consist of at least ten persons above the age of eighteen years.

(2) The word "limited" shall be the last word in the name of every society with limited liability registered under this Regulation.

Application for registration.

8. (1) For purpose of registration an application to register shall be made to the Registrar.

(2) The application shall be signed,—

(*a*) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of section 7, sub-section (1); and

(*b*) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society and where all the members of a society are not registered societies, by ten other members or when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed by-laws of the society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

9. If the Registrar is satisfied that a society has complied with the provisions of this Regulation and the rules, and that its proposed by-laws are not contrary to the Regulation or to the rules, he may, if he thinks fit, register the society and its by-laws.

Evidence of registration.

10. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Amendment of the by-laws of a registered society.

11. (1) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Regulation, for which purpose a copy of the amendment shall be forwarded to the Registrar.

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Regulation or to the rules, he may, if he thinks fit, register the amendment.

(3) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

Rights and Liabilities of Members.

Exercise of rights of members.

12. No member of a registered society shall exercise the rights of a member unless or until he has made such

payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the rules or the by-laws.

Votes of members.

13. (1) Where the liability of the members of a registered society is not limited by shares, each member shall, notwithstanding the amount of his interest in the capital, have one vote only as a member in the affairs of the society.

(2) Where the liability of the members of a registered society is limited by shares, each member shall have as many votes as may be prescribed by the by-laws.

(3) A registered society which has invested any part of its funds in the shares of any other registered society may appoint as its proxy, for the purpose of voting in the affairs of such other registered society, any one of its members.

Restrictions on the transfer of share or interest.

14. (1) The transfer or charge of the share or interest of a member in the capital of a registered society, shall be subject to such conditions as to maximum holding as may be prescribed by this Regulation or by the rules.

(2) A member shall not transfer any share held by him or his interest in the capital of the society or any part thereof, unless

(*a*) he has held such share or interest for not less than one year, and

(*b*) the transfer or charge is made to the society or to a member of the society.

Duties of Registered Societies.

Address of societies.

15. Every registered society shall have an address, registered in accordance with the rules to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof.

Copy of Regulation, rules and by-laws open to inspection.

16. Every registered society shall keep a copy of this Regulation, of the rules governing such society and of its by-laws open to inspection free of charge at all reasonable times at the registered address of the society.

Audit, inspection and inquiry.

17. (1) The Registrar shall audit or cause to be audited by some person authorised by him or by general or special order in writing in this behalf, the accounts of every registered society once at least in every year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(3) The Registrar, the Deputy Commissioner or any person authorised by general or special order in writing in this behalf by the Registrar may at any time inspect the books, accounts, papers and securities of a society,, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require.

Privileges of Registered Societies.

Societies to be bodies corporate.

18. The registration of a society shall render it a body corporate by the name under which it is registered with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Prior claim of society.

19. Subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money re-

coverable as rent, a registered society shall be entitled in priority to other creditors to enforce any outstanding demand due to the society from a member or past member—

(*a*) in respect of the supply of seed or manure or of the loan of money for the purchase of seed or manure—upon the crops or other agricultural produce of such member or person at any time within eighteen months from the date of such supply or loan;

(*b*) in respect of the supply of cattle, fodder for cattle, agricultural or industrial implements or machinery or raw materials for manufacture, or of the loan of money for the purchase of any of the foregoing things—upon any such things so supplied, or purchased in whole or in part from any such loan, or on any articles manufactured from raw materials so supplied or purchased.

Charge and set-off in respect of shares or interest of member.

20. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set-off any sum credited or payable to a member or past member in or towards payment of any such debt.

Shares or interest not liable to attachment.

21. Subject to the provisions of section 20, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and a Receiver appointed under the Mysore Insolvency Regulation, 1911, shall not be entitled to or have any claim on such share or interest.

Transfer of interest on death of member.

22. (1) On the death of a member, a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws.

(2) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal-representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member.

23. The liability of a past member for the debt of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the date of his ceasing to be a member.

Liability of the estate of deceased member.

24. The estate of a deceasad member shall be liable for a period of one year from the time of his decease for the debts of a registered society as they existed at the time of his decease.

Register of members.

25. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of the following particulars entered therein:—

(*a*) the date at which the name of any person was entered in such register or list as a member;

(*b*) the date at which any such person ceased to be a member.

Mode of proof of entries in societies' books.

26. A copy of any entry in a book of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be received in any suit or legal proceeding as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Exemption from compulsory registration of instruments relating to shares and debentures of registered society.

27. Nothing in section 17, clauses (*b*) and (*c*) of the Mysore Registration Regulation, I of 1903, shall apply to:—

(1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immoveable property; or

(2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(3) any endorsement upon or transfer of any debenture issued by any such society.

Power to exempt from stamp-duty and registration fees.

28. (1) The Government, by notification in the official Gazette, may, in the case of any registered society or class of registered societies, remit:—

(*a*) any tax payable to Government or to a local authority in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits;

(*b*) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable;

(*c*) any fee payable under the law of registration for the time being in force.

Property and Funds of Registered Societies.

Registration of loans.

29. (1) A registred society shall not make loan to any person other than a member provided that, with the consent of the Registrar, a registered society may make loans to another registered society.

(2) The Government may, by general or special order, prohibit or restrict the lending of money on the security of moveable or immoveable property or any kind thereof by any registered society or class of registered societies.

Restrictions on borrowing.

30. A registered society may receive deposits and loans from members without restriction, but it shall not receive deposit and loans from persons, who are not members except

to such extent and under such conditions as may be provided by the rules or by-laws.

Restrictions on other transactions with non-members.

31. Save as provided in sections 29 and 30, the transactions of a registered society with persons other than members shall be subject to such prohibitions, and restrictions, if any, as the Government may, by rules prescribe.

Deposit of society's Funds.

32. A registered society may invest or deposit its funds:—

(*a*) in the Government Savings Bank, or

(*b*) in the Post Office Savings Bank, or

(*c*) in the shares or on the security of any other society, or

(*d*) with any Bank or person carrying on the business of banking approved for this purpose by the Registrar, or

(*e*) in any other mode permitted by the rules.

Funds not to be divided by way of profit.

33. No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members:—

Provided that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made among the members to such extent and under such conditions as may be prescribed by the rules or by-laws.

Contribution to charitable purposes.

34. Any registered society, may, with the sanction of the Registrar, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding fifteen *per cent* of the remaining net profits to any charitable purpose.

Explanation.—Charitable purpose in this section includes the relief of the poor, education, medical relief and the advancement of any other object of public utility but does not include a purpose which relates exclusively to religious teaching or worship.

Inspection of affairs.

Inquiry by the Registrar.

35. (1) The Registrar may of his own motion, and shall on the request of the Deputy Commissioner or on the application of a majority of the committee or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an enquiry into the constitution, working and financial condition of a registered society.

(2) All officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar or the person authorised by him may require.

Inspection of books of indebted society.

36. (i) The Registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society.

Provided that,—

(*a*) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time and;

(*b*) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(ii) The Registrar shall communicate the results of any such inspection to the creditor.

Costs of inquiry.

37. Where an enquiry is held under section 35 or an inspection is made under section 36, the Registrar may apportion the costs, or such part of the costs as he may think right between the society, the members or creditor demanding an enquiry or inspection and the officers or former officers of the society.

Recovery of costs.

38. Any sum awarded by way of costs under section 37 may be recovered on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides or carries on business by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person.

Dissolution of Society.

Dissolution.

39. (1) If the Registrar, after an enquiry has been held under section 35 or after an inspection has been made under section 36 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may cancel the registration of the society.

(2) Any member of a society may, within two months from the date of any order made under sub-section (1) appeal from such order to the Government.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the Government.

Cancellation of registration of society.

40. Where it is a condition of the registration of a society that it should consist of at least ten members, the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten.

Effect on cancellation of registration.

41. Where the registration of a society is cancelled, the society shall cease to exist as a corporate body:—

(*a*) in the case of cancellation in accordance with the provisions of section 39, from the date the order of cancellation takes effect;

(*b*) in the case of cancellation in accordance with the provisions of section 40, from the date of the order.

Winding up.

42. (1) Where the registration of a society is cancelled under section 39 or section 40, the Registrar may appoint a competent person to be liquidator of the society.

(2) A liquidator appointed under sub-section (1) shall have power:—

(*a*) to institute and defend suits and other legal proceedings on behalf of the society by his name of office ;

(*b*) to determine the contribution to be made by the members and past members of the society respectively to the assets of the society ;

(*c*) to investigate all claims against the society and subject to the provisions of this Regu-

lation, to decide questions of priority arising between claimants ;

(*d*) to determine by what persons and in what proportions the costs of the liquidation are to be borne ; and

(*e*) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society.

(3) Subject to the rules, a liquidator appointed under this section shall in so far as such powers are necessary for carrying out the purposes of this section have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and so far as may be in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

(4) Where an appeal from any order made by a liquidator under this section is provided for by the rules, it shall lie to the Court of the District Judge.

(5) Orders made under this section shall on application be enforced as follows :—

(*a*) when made by a liquidator, by any Civil Court having local jurisdiction in the same manner as the decree of such Court ;

(*b*) when made by the Court of the District Judge in the matter of any such appeal as aforesaid, in the same manner as a decree of such Court made in any suit pending therein.

(6) Save in so far as is hereinbefore expressly provided, no Civil Court shall have any jurisdiction in respect of any matter connected with the dissolution of a society under this Regulation.

Amalgamation.

Amalgamation.

43. (1) Any two or more registered societies may by resolutions of both or all such societies passed and registered in accordance with rules made by Government in this behalf become amalgamated together as one registered society with or without any dissolution or division of the funds of such societies or either of them and the properties of such societies shall become vested in the amalgamated society without the necessity of any form of conveyance other than that contained in the resolution amalgamating the societies.

(2) Any registered society may by a resolution passed and registered in like manner transfer its engagements to any other registered society which may undertake to fulfil the engagements of such society.

(3) An amalgamation or transfer of engagements in pursuance of this section shall not prejudice any right of a creditor of any registered society which is a party thereto.

Rules.

Rules.

44. (1) The Government may for the whole or any part of Mysore and for any registered society or class of registered societies, make rules to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) subject to the provisions of section 6 prescribe the maximum number of shares or portion of

the capital of a society which may be held by a member;

(*b*) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications ;

(*c*) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation ;

(*d*) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership ;

(*e*) regulate the manner in which funds may be raised by means of shares or debentures or otherwise ;

(*f*) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings ;

(*g*) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers ;

(*h*) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts, and the charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a society ;

(*i*) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted ;

(*j*) provide for the persons by whom and the form in which copies of entries in books of societies may be certified ;

(*k*) provide for the formation and maintenance of a register of members, and, where the liability of the members is limited by shares, of a register of shares ;

(*l*) provide that any dispute touching the business of a society between members or past members of the society or persons claiming through a member or past member or between a member or past member or persons so claiming and the committee or any officer shall be referred to the Registrar for decision, or, if he so directs, to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators ;

(*m*) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members ;

(*n*) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred ;

(*o*) drescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member ;

(*p*) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society;

(*q*) prescribe the extent to which a society may limit the number of its members ;

(*r*) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability, and the maximum rate of dividend which may be paid by a society ;

(*s*) subject to the provisions of section 39 determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals;

(*t*) prescribe the procedure to be followed by a liquidator appointed under section 42 and the cases in which an appeal shall lie from the order of such liquidator; and

(*u*) prescribe the procedure to be observed and conditions to be fulfilled in passing and registering a resolution for amalgamation or transfer of engagements under section 43.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the official Gazette, and on such publication have effect as if enacted in this Regulation.

Miscellaneons.

Recovery of sums due to Government.

45. (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government, including any cost awarded to the Government under section 37 may be recovered in the same manner as arrears of land revenue.

(2) Sums due from a registered society to Government and recoverable under sub-section (1) may be recovered firstly, from the property of the society, secondly in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability; and thirdly in the case of other societies, from the members.

Power to exempt societies from conditions as to registration.

46. Notwithstanding anything contained in this Regulation, the Government may, by special order in each case and subject to such conditions, if any, as it may impose,

exempt any society from any of the requirements of this Regulation as to registration.

Power to exempt registered societies from provisions of the Regulation.

47. The Government may, by general or special order, exempt any society from any of the provisions of this Regulation or may direct that such provisions shall apply to the society with such modifications as may be specified in the order.

Prohibition of the use of the word "co-operative."

48. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word "co-operative" is part without the sanction of the Government.

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Regulation comes into operation.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

Mysore Companies Regulation, 1917, not to apply.

49. The provisions of the Mysore Companies Regulation, 1917, shall not apply to societies registered under this Regulation.

Saving of existing societies.

50. Every society now existing which has been registered under the Mysore Co-operative Societies Regulation, III of 1905, shall be deemed to be registered under this Regulation and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Regulation continue in force until altered or rescinded.

Repeal of Regulation, III of 1905.

51. The Mysore Co-operative Societies Regulation, III of 1905, is hereby repealed.

M. VISVESVARAYA,
Dewan.